

*Application No. 10/061458*  
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*Amendment*  
*Attorney Docket No. S63.2L-10389-US01*

#### **Remarks**

This Amendment is in response to the *Ex Parte Quayle* Office Action dated **January 30, 2006**. The Office Action objected to the application due to issues with the assignment information, the reissue oaths and the format of the previously filed Amendment.

Reconsideration in view of the following remarks and accompanying documents is requested.

#### **Assignment**

The Office Action objected to the application for lacking proper written consent of the assignee, and for lacking establishment of assignee's ownership interest.

With respect to the Consent of Assignee, the Office Action indicated that the consent form previously filed on September 3, 2003 included a typographical error in the name of patentees. Applicants submit herewith a corrected Consent of Assignee form. The corrected form also reflects a subsequent assignment of the application from Quanam Medical Corp. to Boston Scientific Scimed, Inc.

With respect to establishment of assignee's ownership interest, a statement under 37 CFR §3.73(b) is submitted herewith that establishes a chain of title from the inventors to Boston Scientific Scimed, Inc.

Withdrawal of the objections is requested.

#### **Oath/Declaration**

The Office Action stated that the previously submitted Declaration was defective. A new declaration is submitted herewith, executed by available co-inventors Irina Pomerantseva and Michael Froix.

With respect to the non-signing inventors, a petition under 37 CFR § 1.47(a) is enclosed herewith to excuse unavailable inventors Robert Eury, Linh Dinh and Loc Phan.

Applicants further note that the Application has previously been accorded Rule 1.47(a) status, wherein inventors Linh Dinh and Robert Eury were excused from signing the Declaration. A copy of the Petitions Decision dated June 26, 2003 is enclosed herewith.

The new Declaration refers to specific portions of the specification and claims in

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identifying at least one error relied upon as the basis for the reissue.

The Office Action alleged that the previously submitted declaration did not contain a statement that all errors arose without deceptive intent. It should be noted that the previously submitted declaration was based upon the USPTO reissue declaration form, which includes the noted language at the top of page 2. The newly submitted declaration includes similar language, and for the purpose of avoiding further objections, the language is substantially duplicated on page 1.

#### **Claims**

The Office Action stated that the response filed on May 8, 2006 was non-compliant.

This Amendment indicates amendments to the specification and claims vis-à-vis the original patent, and is believed to be in full compliance with 37 CFR § 1.173.

#### **Status of Claims**

As of the date of this Amendment, patent claims 1-15 are all pending, and added claims 16-37 are all pending.

#### **Support for Claim Changes**

The response filed May 8, 2006 did not amend the specification or the claims. All changes to the specification and claims indicated herein were first presented to the Office in prior amendments. Support for the amendments and added claims can be found at least in Figures 1B, 3A, 3B and 8A-8D.

If a more particular showing is required, Applicants request that the Examiner refer to the previously submitted Amendments, and/or contact Applicants' undersigned representative. Because the current Office Action is an *Ex Parte Quayle* Action, and thus the application is in condition for allowance except for formal matters, Applicants assume that the Examiner has deemed the previously submitted Amendments fully supported.

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Differences Between New and Original Claims

The Office Action states that Applicants are required to point out the differences between the new claims (assumed to be added claims 16-37) and the original claims (assumed to be patent claims 1-15).

The original claims of the issued patent are directed to a unit cell for use in a stent (independent claim 1) and a stent comprising a plurality of unit cells (independent claim 5). These claims included functional language specifying that in the unit cell, an outward distance traveled by an arm's outer end is approximately equal to an inward distance traveled by an associated looped member extremity. These limitations are amended in the reissue to clarify that an axial outward distance traveled by an arm's outer end is approximately equal to a reduction in length of an axial component length of the associated looped member. A stent having unit cells meeting the recited limitations will typically be capable of radial expansion without significant axial foreshortening, as discussed in the application.

The added claims are directed to stents and include limitations directed to the stent structure. These claims do not require the functionality recited in the original claims.

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**Conclusion**

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-37 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: May 30, 2007

By: \_\_\_\_\_

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